



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Department of Medical Assistance Services
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 30, Chapters 50 and 80
<b>Regulation title</b>	Amount, Duration and Scope of Medical and Remedial Services; Methods and Standards for Establishing Payment Rates - Other Types of Care
<b>Action title</b>	Administration of Hearing aid Services for Children
<b>Final agency action date</b>	
<b>Document preparation date</b>	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Department of Medical Assistance Services (DMAS) currently covers hearing aids for children through the Medicaid Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program. The Virginia Administrative Code states that the EPSDT program covers “hearing services,” but it does not reference “hearing aids.” This regulatory action expressly references hearing aids for children as a covered service under EPSDT and modifies the method of reimbursement as directed by Chapter 847, Item 302 EEE of the 2007 *Acts of Assembly*.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

I hereby approve the foregoing Agency Background Document with the attached amended regulations Administration of Hearing Aid Services for Children (12VAC 30-50-130 and 12VAC 30-80-95) and adopt the action stated therein. I certify that this final regulatory action has completed all the requirements of the Code of Virginia § 2.2-4006, of the Administrative Process Act and is full, true, and correctly dated.

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Date

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Patrick W. Finnerty, Director  
Dept. of Medical Assistance Services

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

The sections of the Medicaid State Plan that are affected by this regulatory action are the Amount, Duration, and Scope of Medical and Remedial Services (12 VAC 30-50) and the Methods and Standards for Establishing Payment Rates – Other Types of Care (12 VAC 30-80).

Currently, some lower cost hearing aids that use older technology have set reimbursement rates. DMAS reimburses for the majority of its hearing aid services without an established rate by using the invoice cost of the hearing aid plus 30 percent for fitting and dispensing. The proposed language for 12 VAC 30-50 specifies that hearing aid services are reimbursed as an EPSDT service for all individuals younger than 21 years of age according to medical necessity when provided by practitioners licensed to engage in the practice of fitting or dealing in hearing aids. This is consistent with current practice.

The proposed language for 12 VAC 30-80 specifies that reimbursement for hearing aid services shall be the actual cost of the hearing aid, not to exceed limits set by DMAS, plus a dispensing fee and a fitting fee not to exceed limits set by DMAS. With the proposed regulatory changes, DMAS will establish fixed rate fitting and dispensing fees for all hearing aids.

The *Code of Virginia* (1950) as amended, 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. *The Code of*

Virginia (1950) as amended, § 32.1 – 324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board’s requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments and services.

This action meets the exemption provided by the *Code of Virginia* § 2.2 – 4006 (A) (4) (a) because it conforms these attached regulations to the requirements of Chapter 847, Item 302 EEE of the 2007 *Acts of Assembly* and does not materially differ. Additionally, the Agency has no discretion concerning the implementation of this mandated requirement.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	12VAC30-50-130.B.7.		<p>The proposed added section specifies that hearing aid services are reimbursed for individuals younger than 21 years of age according to medical necessity when provided by practitioners licensed to engage in the practice of fitting or dealing in hearing aids.</p> <p>The purpose of the added language is to expressly state that hearing aids are a covered service as required by § 1905(r)(4)(B) of the Social Security Act, to define the conditions under which hearing aids are covered, and to define who can provide the service. The proposed definitions are consistent with current practice.</p>
	12VAC30-80-95		<p>The proposed added section specifies that, effective January 1, 2008, reimbursement for hearing aid services shall be the actual cost of the hearing aid not to exceed limits set by DMAS, plus a dispensing fee and a fitting fee not to exceed limits set by DMAS.</p> <p>The purpose of this added language is to establish the basis of reimbursement for hearing aid services, as directed by 2007 the <i>Acts of Assembly</i>.</p>

### Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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This regulatory action will have no negative affects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities. Expressly including children’s hearing aids in the Medicaid State Plan could increase awareness of this service, facilitate simplified administrative procedures, and result in a greater number of children with improved access to hearing aids. This potentially could result in better cognitive and developmental outcomes for children in Virginia.

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